

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CARL MEALING,

Plaintiff,

v.

CITY OF RIDGEFIELD, WHASINGTON;
RIDGEFIELD POLICE DEPARTMENT;
RIDGEFIELD POLICE CHIEF BRUCE
HALL; BRUCE HALL, in his individual
capacity; RIDGEFIELD CITY MANAGER
GEORGE FOX; and GEORGE FOX in his
individual capacity,

Defendants.

Case No. C05-5778FDB

ORDER GRANTING DEFENDANT
FOX'S MOTION FOR PROTECTIVE
ORDER

Defendant George Fox moves for a protective order barring any party from deposing him before October 13, 2006, owing to his medical condition as described by his physician. All counsel have been notified, and Plaintiff Mealing objects to a continuance of more than 30 days.

This cause of action involves claims by Mealing that Fox terminated his employment with the City of Ridgefield because of his race, and Fox denies these allegations.


Plaintiff objects to the continuance of Fox's deposition until after October 13, 2006 arguing that Fox has not demonstrated good cause, that notice to the parties one week before the Fox's

1 schedule deposition was unreasonable. Plaintiff also suggests that if the protective order is granted
2 that Plaintiff is entitled to additional medical discovery and a Rule 35 psychiatric examination of Fox.
3 Finally, Plaintiff offers “reasonable accommodation” to Fox for short sessions and recesses if his
4 deposition is allowed to proceed.

5 Plaintiff’s opposition is not well taken. The authorities cited by Plaintiff are distinguishable
6 and not binding upon this Court in any event. Plaintiff’s fears that the deposition of Fox could be
7 perpetually continued is not demonstrated, and Fox has acknowledged his duty to appear for
8 deposition. The Court does not find the week’s notice re cancellation of Fox’s deposition was
9 unreasonable, and concludes that the notice was reasonable under the circumstances, notice being
10 given the day after Fox’s medical condition was learned. Plaintiff has made no proper motion for a
11 Rule 35 medical examination of Fox. Fox’s physician has provided specific reasons for her
12 recommendation of three months time to stabilize Fox’s medical problems before the stress of a
13 hearing or deposition occurs. (Lloyd Supp. Decl. Ex. 2)

14 ACCORDINGLY, IT IS ORDERED: Motion of Defendant Fox for a Protective Order [Dkt.
15 # 37] is GRANTED and the parties are barred from deposing Defendant Fox at any time prior to
16 October 13, 2006. Defendant Fox may be deposed at a mutually convenient time and place after
17 October 13, 2006.

18 DATED this 24th day of August, 2006.

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21 FRANKLIN D. BURGESS
22 UNITED STATES DISTRICT JUDGE
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